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PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
R. Porubcan

Serial No. 10/743,402

Filed: 12/22/2003

Group Art Unit: 1645

Examiner: Lakia J. Tongue

For: FORMULATIONS TO INCREASE *in vivo* SURVIVAL OF PROBIOTIC BACTERIA AND EXTEND THEIR SHELF-LIFE

I hereby certify that, on the date indicated below, this correspondence was sent by fax to the Commissioner for Patents, at (703) 872-9306.

By: 

Date: 3/3/05

Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

Response and Amendment

Dear Sir:

In response to the Office Action of 12/28/2004, please amend the claims as in the attached claim listing and reconsider the rejections in view of the following remarks.

REMARKS

The Examiner requested affirmation of the election to prosecute claims 1-13. The other claims have been canceled.

The claims have been amended such that the rejections under Section 112 are not applicable.

The Examiner has rejected all the claims under Section 102(e) over McGrath et al. Claim 1 has been amended to recite:

A formulation comprising probiotic bacteria with monovalent alginate salts, wherein the formulation has a water activity of between 0.01-0.07, and wherein, upon exposure to an acidic environment, an alginic acid gel is formed which shields the probiotic bacteria from the antibiotic effects of the acidic environment.